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Ms. Marlene Dortch, Secretary Federal Communications Commission The Portals, TW-A325 445 12th Street, SW Washington, DC 20554

Re: Notice of Ex Parte Presentation – Wireline Broadband Proceeding

CC Dkt. Nos. 02-33, 98-10, 95-20

Dear Ms. Dortch:

On August 1, 2005, Christopher Putala and David Baker of EarthLink, Inc., and the undersigned met separately with Scott Bergmann, Legal Advisor to Commissioner Adelstein, and Jessica Rosenworcel, Legal Advisor to Commissioner Copps, regarding the above captioned proceeding. EarthLink stressed the importance of a reasonable transition period of three years, should the FCC decide to reclassify BOC wholesale DSL services as private carriage. Such a period of time is consistent with the three year line sharing transition period the FCC provided in the UNE Triennial proceeding, and is necessary to ensure that EarthLink's DSL arrangements with the BOCs continue without interruption of services to end users. EarthLink pointed out that it takes DSL services both directly from BOC common carrier offerings and from BOC layer 3 arrangements that use the BOCs' tariffed DSL as a component for the last-mile broadband transport service.

EarthLink also urged the Commission to explain that UNE access arrangements, including UNE-L, should be reaffirmed and expressly supported in its upcoming broadband order. With the deregulation of broadband access to ISPs, it is even more imperative to ensure UNE access stability.

In a separate telephone conversation, the undersigned discussed with Ms. Rosenworcel that deregulation of any BOC services over 200 Kbps, including T1, T3, and OC-N connections, would further necessitate a sufficient transition period.

Pursuant to the Commission's rules, one copy of this memorandum is being filed electronically in the above-referenced dockets for inclusion in the public record. Please do not hesitate to contact me directly if you have any questions.

Respectfully submitted,

/s/

Mark J. O'Connor Counsel for EarthLink, Inc.